

LANDSCAPE MAINTENANCE AGREEMENT

Tracs H034301C

ARIZONA PROJECT F-016-1-520

BENSON-DOUGLAS HIGHWAY (SR 80)
(11th St-13th St)
City of Douglas

THIS AGREEMENT, made this 19th day of July, 1988, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Douglas, a municipal corporation, acting by and through its City Council, thereunto duly authorized, hereinafter designated as City.

WITNESSETH:

WHEREAS, the City is empowered by A.R.S. Sec. 9-672B to enter into this agreement and acting by and through its City Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of the City; and

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City to landscape certain areas within the right-of-way on State Route 80 from centerline roadway station 55+20 (11th Street), to centerline roadway station 62+20 (13th Street), a net distance of approximately 0.13 miles.

NOW THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City, pursuant to the authority contained in A.R.S. Sec. 28-108 as follows:

1. The Department of Transportation will prepare plans for the landscaping and irrigation project and submit them to the City for approval.

2. After City approval of the plans, the project will be constructed by the Department of Transportation, using State funds. Upon completion of the work, the City shall reimburse the Department of Transportation 25% of the final construction costs.

3. The City shall furnish and install necessary water services from water mains to the designated locations within the right-of-way on State Route 80 for the landscaping from centerline roadway station 55+20 (11th Street), to centerline roadway station 62+20 (13th Street). Cost shall be a portion of the 25% matching funds and at standard water service rates, all at City expense.

4. The City shall furnish all water for landscape installation during construction phase, and all water hereafter necessary to properly maintain the landscape within the right-of-way on State Route 80 for the landscaping, all as shown on the project plans from centerline roadway station 55+20 (11th Street), to centerline roadway station 62+20 (13th Street), all at City expense.

5. After construction the City shall maintain the landscaping and irrigation system within the right-of-way on State Route 80 on both sides of the roadway from centerline roadway station 55+20 (11th Street), to centerline roadway station 62+20 (13th Street).

6. The City shall furnish all electrical power necessary to maintain the landscaping within the right-of-way on State Route 80 on both sides of the roadway from centerline roadway station 55+20 (11th Street), to centerline roadway station 62+20 (13th Street).

7. The City hereby agrees to maintain the landscaping and irrigation system, in an attractive manner, as it was designed and approved by the Department of Transportation, and the City will not make any changes, additions or deletions without written approval by the Department of Transportation, Roadside Development Services.

8. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic and in conformance with the Arizona Traffic Control Manual.

9. The parties hereto further agree that to the extent permitted by law, the Department of Transportation and City agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party hereto or of their persons and for the

injury or death to any or all persons caused by or attributable to the negligence or fault of the Department of Transportation or the City, their employees or agents. As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgement on the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in A.R.S. Sec. 12-1518 (B) and (C).

10. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

11. Attached hereto are resolutions of the Department of Transportation and the City authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Douglas that this agreement is in proper form and within the powers and authority granted to the City under the laws of this State.

12. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

13. All parties are hereby put on notice that this Contract (Agreement) is subject to cancellation by the Governor, pursuant to A.R.S. Sec. 38-511.

IN WITNESS WHEREOF the parties have executed two copies of this agreement on the day and year herein written.

ARIZONA DEPARTMENT OF TRANSPORTATION

CITY OF DOUGLAS, a
municipal corporation

By Gary K. Robinson
CHIEF DEPUTY STATE ENGINEER

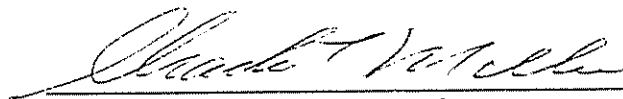
By Ben La Jara

ECS File: JPA-88-44
Project: F-016-1-520
Section: 11th St.-13th St.

RESOLUTION

BE IT RESOLVED on this 7th day of July, 1988, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, enter into an agreement with the City of Douglas for the City to maintain landscaping on certain State highways.

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.


CHARLES L. MILLER, Director
Arizona Department of
Transportation

STATE OF ARIZONA)
 : SS
County of Cochise)

I, VICTOR M. STEVENSON, CITY CLERK / TREASURER of
the City of Douglas, Arizona, do hereby certify that the
following is a true and correct extract of the minutes of the
City Council meeting held 10-8-86.

In Witness Whereof, I have hereunto set my hand and
affixed the Official Seal of the City of Douglas, Arizona.
Done in Douglas, Arizona this 18th day
of FEBRUARY, 1988.

Victor M. Stevenson

the item be tabled until an ordinance could be drafted and legally posted. There was discussion about the program, the cost to the City, and whether the issuance of bonds was voluntary. The City Manager advised that there was no cost to the City unless bonds were issued and there is no obligation to the City to issue bonds. The City Manager recommended that serious consideration be given to joining this pool because participation would preserve the tax exempt status for any bond issues made during the next 3 years. The Mayor suggested that participation in the program be adopted in concept and that the Council instruct the City Attorney to draft an ordinance for adoption at a special meeting. A motion was made by Councilman Arzate, seconded by Councilman Ames to approve in concept the participation in the program and instruct the City Attorney to draft the proper ordinance. By roll call, all voted in favor of the motion and the Mayor concurred.

The Mayor proceeded to the next agenda item which was discussion and decision on the request of the Cemetery Committee for the City to purchase a 350 insert add-on plaque for \$1250 and to authorize the appropriation of contingency funds for the expenditure. A motion was made by Councilman Ames, seconded by Councilman Shannon to approve the purchase of the addition to the memorial plaque and the appropriation of contingency funds in the amount of \$1575.69 which would also include the glass needed. By roll call, all voted yes and the Mayor concurred with the motion.

The next item on the agenda was discussion and decision on the request of Gordon Ray and Associates for approval of a contract addition in the amount of \$3,680 for unanticipated expenses incurred on the design of the 10th Street improvement project. The City Manager advised that phase I and II of the 10th Street Project engineering work had been done in accord with the Council's direction. He explained that when A-DOT completed their cost estimates for the project, it was necessary to reduce the planned construction to Phase I only (Van Buren to Washington on 10th Street). That decision which was predicted on economics, required the redesign of the drainage and other project considerations which caused additional work by the engineers which was beyond the control of the City or Gordon Ray and Associates. He recommends approval of the contract addition. A motion was made by Councilman Ames, seconded by Councilman Arzate to authorize payment for the contract addition of \$3,680. By roll call, all voted aye and the Mayor concurred.

The following agenda item was discussion and decision on the acceptance of a grant offer from the Arizona Department of Transportation for \$15,000 to participate in the non-interstate landscaping program and approval of the expenditure of \$3,750

for matching funds. A motion was made by Councilman Shannon, seconded by Councilman Arzate to accept the grant offer and for the City to pay \$3,750 in matching funds for the landscaping project. By roll call, all voted in favor of the motion and the Mayor concurred. There was discussion about the area which would be considered, the type of project, and whether the City would be involved in the design. Art Atonna advised the Council that he thought it was going to be shrubbery, plants, trees, etc. in the north A Avenue area. The Council was further informed that the final project design would be brought to the Council following input from citizens and City staff.

The Mayor proceeded to the next item on the agenda which was discussion and decision on a proposed license from the Arizona National Guard to use a portion of the Douglas training site for a public shooting range. The City Attorney voiced concern about the proposed agreement such as control of the site, coordination of use, and reduction of liability exposure. Following discussion, a motion was made by Councilman Jordan, seconded by Councilman Arzate and unanimously passed to table the matter until more information on the proposed license is received.

The agenda item which followed was discussion and decision on the proposed agreement with Cochise County to provide ambulance service to approximately 1,500 square miles of the County. The City Manager reported that following the receipt of the information they requested, the Department of County Health Services revised the proposed annual fee payments from the \$23,000 originally offered to \$28,100. The City Manager recommended that the revised fee schedule be approved for the present fiscal year, but suggested that the County be given notice that because of declining revenue that the service would not be continued beyond July 1, 1987. There was discussion about alternatives for service to that area such as formulation of a special district; the County ambulances providing coverage; service provided by volunteer Fire Departments and others. The purpose of giving notice was to allow adequate time to explore other options and put a service in place. The City Attorney pointed out needed corrections on page 1 concerning statutory authority and on page 2 he suggested that the City should also reserve the right to change or reduce the service area and that notice of termination should be allowed to either party at least 30 days in advance. A motion was made by Councilman Huber, seconded by Councilman Ames that the proposal be approved as amended or corrected; that Cochise County be notified that this will be the last year of service and that staff be authorized to execute the agreement. By roll call, all voted in favor of the motion and the Mayor concurred. Councilman Salinas asked when the question of authorizing I-EMT training would be addressed and made a motion to discuss it at a meeting to be held on October

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF DOUGLAS and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 23rd day of September, 1987.

A handwritten signature in black ink, appearing to read 'Art C. Atonna', written in a cursive style.

ART C. ATONNA

City Attorney

ATTORNEY GENERAL
1275 West Washington
Phoenix, Arizona 85007
Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

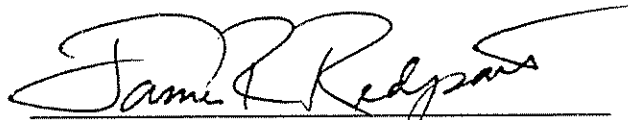
DETERMINATION

A. G. Contract No. KR88-1651-TRD, which is an agreement between public agencies, has been reviewed pursuant to Arizona Revised Statutes Section 11-952, as amended, by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter said agreement.

Dated this 20th day of July, 1988.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division